

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JOHN IVAN SUTTER, M.D.,

Plaintiff,

v.

OXFORD HEALTH PLANS, LLC,

Defendant.

Civil Action No. 2:05-CV-02198-JAG-GDH

**DECLARATION OF EDWARD SOTO IN
SUPPORT OF MOTION TO VACATE
MODIFIED CLAUSE CONSTRUCTION
ARBITRATION AWARD, OR
ALTERNATIVELY, FOR
RECONSIDERATION**

EDWARD SOTO, declares pursuant to 28 U.S.C. § 1746 and under the penalty of perjury of the laws of the United States of America, that the following is true and correct:

1. I am a partner of the firm of Weil, Gotshal & Manges LLP, attorneys for defendant Oxford Health Plans, LLC ("Oxford") in the above-referenced matter. I submit this declaration to provide this Court with materials that were part of the record in the case pending before the American Arbitration Association ("AAA") entitled, *John Ivan Sutter, M.D. v. Oxford Health Plans, Inc.*, AAA Case No. 18 193 20593 02 (the "*Sutter v. Oxford* arbitration"), and referred to in Oxford's Memorandum of Law in Support of Motion to Vacate Modified Clause Construction Arbitration Award, or Alternatively, for Reconsideration (the "Motion").

2. A true and correct copy of the Partial Final Class Determination Award of Arbitrator, entered on March 24, 2005 in the *Sutter v. Oxford* arbitration, a copy of which was previously filed with the Court as Exhibit A to the Declaration of M. De Leeuw in Support of Oxford's Motion to Vacate Arbitration Award Certifying a "Class Arbitration," filed April 25, 2005 (the "De Leeuw Declaration") [Docket Entry 1], is annexed hereto as Exhibit "A."

3. A true and correct copy of Procedural Order No. 18, entered on July 6, 2010 in the *Sutter v. Oxford* arbitration (referred to in Oxford's Motion as the "Modified Award"), is annexed hereto as Exhibit "B."

4. A true and correct copy of the Amended Complaint and Jury Demand, filed on April 26, 2002 in the Superior Court of New Jersey in *Sutter v. Horizon Blue Cross/Blue Shield of NJ*, No. L-3685-02, a copy of which was previously filed with the Court as Exhibit C to the DeLeeuw Declaration, is annexed hereto as Exhibit "C."

5. A true and correct copy of Oxford's Memorandum of Law in Support of Its Motion to Stay and/or Dismiss in Part the Amended Complaint, filed on July 26, 2002 in *Sutter v. Horizon Blue Cross/Blue Shield of NJ*, No. ESX-L-6644-02 (the "*Sutter v. Oxford* litigation"), is annexed hereto as Exhibit "D."

6. A true and correct copy of Oxford's Reply Memorandum of Law in Further Support of Its Motion to Stay and/or Dismiss in Part the Amended Complaint filed on October 1, 2002 in the *Sutter v. Oxford* litigation, is annexed hereto as Exhibit "E."

7. A true and correct copy of Plaintiff's Brief in Opposition to Defendant's Motion to Compel Arbitration and to Dismiss, filed on September 17, 2002 in the *Sutter v. Oxford* litigation, a copy of which was previously filed with the Court as Exhibit N to the De Leeuw Declaration, is annexed hereto as Exhibit "F."

8. A true and correct copy of Plaintiff's Brief in Support of Motion for Class Certification filed on September 24, 2002 in the *Sutter v. Oxford* litigation, is annexed hereto as Exhibit "G."

9. A true and correct copy of Order Dismissing Case and Referring Claims to Arbitration, entered on November 21, 2002 in the *Sutter v. Oxford* litigation, is annexed hereto as Exhibit "H."

10. A true and correct copy of Order of Class Certification, entered on October 25, 2002 in the *Sutter v. Oxford* litigation, a copy of which was previously filed with the Court as Exhibit F to the De Leeuw Declaration, is annexed hereto as Exhibit "I."

11. A true and correct copy of Sutter's Demand for Arbitration, filed on December 11, 2002 in the *Sutter v. Oxford* arbitration, is annexed hereto as Exhibit "J."

12. A true and correct copy of Oxford's Motion for an Order that "Class Arbitration" Is Not Available Under Dr. Sutter's Contract With Oxford (without exhibits), filed on August 4, 2003 in the *Sutter v. Oxford* arbitration, is annexed hereto as Exhibit "K."

13. A true and correct copy of Oxford's Reply Brief in Further Support of Its Motion for an Order that "Class Arbitration" Is Not Available Under Dr. Sutter's Contract With Oxford (without exhibits), filed on September 10, 2003 in the *Sutter v. Oxford* arbitration, is annexed hereto as Exhibit "L."

14. A true and correct copy of Claimant's Brief in Opposition to Oxford's Motion for an Order Denying Availability of Class-Wide Arbitration (without exhibits), filed on August 21, 2003 in the *Sutter v. Oxford* arbitration, is annexed hereto as Exhibit "M."

15. A true and correct copy of Oxford Health Plan's Inc.'s Motion for Modification of Clause Construction Award (without exhibits), filed on May 13, 2010 in the *Sutter v. Oxford* arbitration, is annexed hereto as Exhibit "N."

16. A true and correct copy of Primary Care Physician Agreement between Oxford Health Plans, Inc. and John Ivan Sutter, M.D., dated as of September 30, 1998, a copy of which was previously filed with the Court as Exhibit I to the De Leeuw Declaration, is annexed hereto as Exhibit "O."

17. A true and correct copy of Transcript of Motion, for a hearing dated October 25, 2002 in the *Sutter v. Oxford* litigation, is annexed hereto as Exhibit "P."

Executed this 13th August, 2010, at Miami, Florida.


Edward Soto